



Employer duties and defining the workforce

An introduction to the new employer duties

February 2012 v3.0

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The Pensions
Regulator

About this guidance

- This guidance is aimed at professional advisers and employers with in-house pensions professionals.
- It is the first in a series of guidance that explains the new employer duties and safeguards in detail. Illustrative examples throughout the series show further how the laws will apply in practice.
- It covers the points an employer must understand to comply with their new duties from their staging date (the date the new laws will apply to that employer for the first time).
- This guidance tells an employer:
 - how the working population is classified under the new legislation
 - what is meant by ‘worker’, the different categories of worker and how to identify them
 - how to assess their workforce and to identify which individuals they will have new employer duties for
 - what the new duties are in relation to each category of worker.
- We recognise that many employers will already have pension provision for their workers, and that this will often match or exceed the minimum requirements contained in the duties.
- In these cases, such employers may just need to check that the minimum requirements are covered in their existing processes.
- We have identified **7 steps to prepare for automatic enrolment**, which summarises the main steps towards achieving compliance. Employers may find this helpful when navigating this guidance: www.tpr.gov.uk/7-steps
- It will be helpful to employers to be familiar with the different categories of workers. These are explained further in this guidance and a quick reminder is available in **Key terms** on page 20.
- This guidance has been updated as a result of recent legislative changes including the Pensions Act 2011 receiving Royal Assent. Additionally, some content has been updated as a result of feedback from employers and general review. The appendix provides details of significant changes made to this guidance. Further minor changes have been made but where these do not significantly impact on the structure or content, they are not listed in the appendix.
- We will be updating this guidance when the revised figures for the lower level of qualifying earnings and the earnings trigger for automatic enrolment are published.



An employer must understand their new duties

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Key points

- An employer is defined as anyone who has a contract with a 'worker'. The employer will have certain duties and safeguards to which they must adhere in relation to enrolling that worker into a pension scheme.
- An employer must identify whether they have a 'worker' – in some cases this may not be clear and they may need to consider a number of different factors.
- As a minimum, an employer with one or more worker(s) will need to register with **The Pensions Regulator** ('the regulator').
- It is important for an employer to understand the different categories of worker – 'eligible jobholders', 'non-eligible jobholders' and 'entitled workers' – and the duties they will have in respect of each category.
- The duties for an employer include:
 - **Automatic enrolment**
Enrolling a worker into a pension scheme without the need for any action by the worker
 - **Opting in, joining and contractual enrolment**
Arranging membership of a pension scheme for workers who choose to opt in or join a pension scheme
 - **Managing opt outs**
Administering the opt-out process for workers who decide they do not want to be a member of a pension scheme
 - **Providing information**
Giving specified information to groups of workers within the specified categories.
- Once an employer has automatically enrolled or enrolled a worker, they will need to make employer contributions and maintain contributions to the pension scheme.
- They will also be required to keep records about their workers and the pension scheme used to comply with their duties.
- An employer must be able to keep track of the ages and earnings of everyone who works for them at all times.

An employer has certain duties and safeguards to adhere to

Section 1:

Introduction

1. Starting in 2012, a number of new employer duties are being introduced that will give millions of workers access to pension provision, many for the first time.
2. What an employer will need to do will depend on whether they employ someone the legislation classifies as a 'worker'.
3. The term 'worker' is specific – it does not simply apply to the working population as a whole. There are different categories of worker, determined by a person's age and how much they earn.
4. A key requirement will be to automatically enrol certain workers, known as eligible jobholders, into a pension scheme that meets specific conditions to be an 'automatic enrolment scheme'. More information on the conditions to be an automatic enrolment scheme can be found in **Detailed guidance no. 4 – Pension schemes**. However, automatic enrolment is only one of the duties.
5. For all employers, compliance with the new employer duties and safeguards is compulsory. It is crucial that all employers understand how their workforce will be categorised under the new legislation.
6. An employer needs to know:
 - the criteria that determine whether someone is considered as a 'worker'
 - the criteria that determine what category of 'worker' that person is.
7. They will also need to be able to apply this in practice to their own workforce so they can be compliant with the new duties.

Section 2: The first step – Identifying whether a person is a ‘worker’

8. The first step for an employer is to see if they employ anyone classed as a ‘worker’. To do this, they will need to understand their contractual relationships.
9. A worker is defined as any individual who:
 - works under a contract of employment (an employee), or
 - has a contract to perform work or services personally (ie they cannot send a substitute or sub-contract the work) and is not undertaking the work as part of their own business.
10. Anyone who has entered into a contract of this type (sometimes referred to as a ‘contract of service’) with an individual is an employer and will be required to comply with the new employer duties.
11. This may include agency workers if they have such a contract with either the agent or the principal (the third party to whom the individual is being supplied by the agent). Broadly, agency workers are individuals who are supplied by an agent to work for a third party (the principal) under a contract or arrangement between the agent and the principal, and who are not undertaking the work as part of their own business. For example, a person taken on by a recruitment agency that gives that person a temporary assignment to work for someone else.
12. In the absence of a worker’s contract between the agency worker and the agent or principal, the agency worker may still be a worker for the purposes of the new duties (see paragraphs 20-21).
13. The final point to note about the definition of worker in paragraph 9 is that the physical location of the employer is not a determining factor when considering an individual’s status as a worker, eg the employer may be based outside the UK.
14. The following sections set out more detail. There are a small number of exemptions from the definition of a worker, set out in paragraphs 28-37.



A note about contracts

- A contract does not have to be in writing.
- It can be a verbal contract between the employer and the worker.
- The terms of employment can be implied, rather than explicitly stated.
- Multiple contracts with one individual will require a separate assessment. **Detailed guidance no. 2 – Getting ready** has more information.
- Where a transfer occurs under the TUPE regulations, transferred-in workers should be viewed as being under a new contract and the new employer should therefore assess that individual’s worker status at the point of transfer.

Personal service workers

15. If an individual does not work under a contract of employment, they may still be assessed as a worker for the purposes of the new duties if they have contracted to perform work or services personally (this is sometimes referred to as a 'contract of services'). However, an individual who is paid a fee as a self-employed contractor under a contract for services is not normally a worker.
16. The distinction between a 'contract for services' and a 'contract of service' is much debated in employment law and employers will be used to making the assessment of employee status for employment rights and tax purposes.
17. However, employers should not rely solely on a person's tax status when assessing whether they are a worker. An individual considered by **HM Revenue & Customs** (HMRC) as self-employed for tax purposes may still be classed as a 'worker' under the new employer duties legislation, if they are in fact working under a personal contract of services.
18. No single factor, by itself, is capable of being conclusive in determining whether a contract is 'for services' or 'of service'. However, individuals are likely to be considered as personal service workers (workers under the contract of services) if most, or all, of the following statements are true:
 - The employer relies on the individual's expertise and expects them to perform the work themselves.
 - There is an element of subordination between the employer and individual, for example the individual reports to the employer's managers or directors in respect of the specific operation or project on which they are contracted to work.
 - The contractual provisions state that the contract is not a contract for services between the employer and the individual's own business.
 - The contract provides for employee benefits such as holiday pay, sick pay, notice, fees, expenses etc.
 - There is a mutual obligation set down in the contract to provide or do the work.
 - The individual does not incur any financial risk in carrying out the work.
 - The employer provides tools, equipment and other requirements to the individual to carry out the work.
19. This list is not exhaustive. As when they are assessing an individual's status for tax purposes, an employer must take into account all relevant considerations.

Agency workers

20. Where there is no worker's contract between the agency worker and the agent or the principal, an agency worker (as defined in paragraph 11) is treated as a worker for the purposes of the new duties.
21. The agent or principal will be the agency worker's employer depending on which is responsible for paying the worker under any arrangement between the agent and the principal. Consequently, whichever is responsible will be subject to the employer duties. If it cannot be determined who is responsible for paying the worker, for example, if the contract or arrangement between the principal and agent did not cover this particular issue, then whichever actually pays the worker will be the employer.

Secondees

22. Individuals working on secondment from another company will usually remain a worker for the company from which they are seconded.
23. Therefore, an employer with a secondee is unlikely to have any employer duties in relation to that individual, but the employer who has seconded their worker usually will.
24. However, employers should examine the contractual and remuneration arrangements for secondees to ensure the correct party carries out the employer duties.

Seafarers

25. Any person employed or engaged in any capacity on board a ship or hovercraft is to be treated as if they were a worker.

Offshore workers

26. Offshore workers are people who are working in the territorial waters of the UK or in connection with the exploration of the sea bed or subsoil, or the exploitation of their natural resources, in the UK sector of the continental shelf (including the UK sector of a cross-boundary petroleum field).
27. They will need to be assessed in the same way as other individuals and will be classed as a worker if they meet the criteria in paragraph 9.

Exemptions from worker status

28. As described in paragraph 15, an individual working under a contract for services with the employer (ie as a self-employed contractor) is not normally a worker. In addition, there are a few exemptions where one or more individuals are employed, but they are not classified as workers. Employer duties do not apply to these people.

One-person companies

29. If an individual is a director of a company and the company has no other employees, that individual is not a worker by virtue of any office that they hold or contract of employment under which they work. The company is therefore not subject to the employer duties in relation to that individual.
30. However, if the company takes on a second worker, and both the director and the new employee work under a contract of employment, then both the director and the new employee will be workers for the purposes of the employer duties and the company will have responsibilities in relation to both of them.

Armed forces

31. Any serving member of the naval, military or air forces of the Crown is not classified as a worker.
32. Members of the following forces are not workers when they are carrying out their duties as members of that force:
 - Combined Cadet Force
 - Sea Cadet Corps
 - Army Cadet Force
 - Air Training Corps.

Office-holders

33. An office-holder is not normally a worker.
34. An office-holder has no contract or service agreement in relation to their appointment, nor do they receive a salary or regular remuneration for their services.
35. Examples of office-holders who are not normally workers include:
 - non-executive directors
 - company secretaries
 - board members of statutory bodies
 - trustees.
36. It is very important to consider the specific circumstances of the individual. Sometimes a person who appears to be an office-holder may also have a contract of service for part of their duties and will therefore be a worker in respect of those duties.

Volunteers

37. Volunteers would not normally have a contract of service and are not workers. However, this may change if any form of payment or non-financial benefit is given to them.



**Employers
will need to
understand
their contractual
relationships**

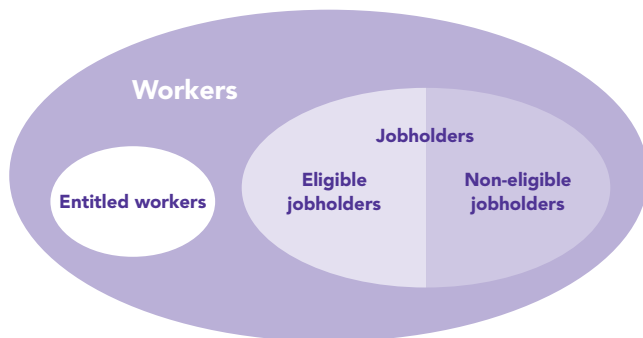
Section 3: The different categories of 'worker'

38. Once an employer has identified that they have a worker, the next step is to ascertain what type of worker they have. It is only in respect of certain types of workers that an employer will have duties.
39. There are two main categories of worker for which the employer duties apply:
- Jobholders
 - Entitled workers.
40. The category of jobholder then further subdivides into two groups: :
- Eligible jobholders
 - Non-eligible jobholders.
41. Figure 1 illustrates how the different categories of worker relate to each other. (Note that the size of the components is not indicative.)
42. The employer duties apply in respect of:
- eligible jobholders
 - non-eligible jobholders
 - entitled workers.
43. The duties are different for each of these categories and are described in section 4.
44. The category into which a worker falls is determined by their age and whether they earn qualifying earnings.

Eligible jobholders

45. They are called this because they are 'eligible' for automatic enrolment. These are workers who:
- are aged between 22 and state pension age
 - are working or ordinarily work in the UK under their contract
 - have qualifying earnings payable by the employer in the relevant pay reference period that are above the earnings trigger for automatic enrolment (currently £7,475¹).

Figure 1
The different categories of worker



¹ This is in 2011-2012 terms. On 15 December 2011, the Department for Work and Pensions (DWP) published a consultation on the amount of the earnings trigger for automatic enrolment for the 2012-2013 tax year.

Non-eligible jobholders

46. They are called this because they are not eligible for automatic enrolment but can choose to opt in to a pension scheme. These include workers who **either**:
- are aged between 16 and 74
 - are working or ordinarily work in the UK under their contract
 - have qualifying earnings payable by the employer in the relevant pay reference period (the lower earnings level for qualifying earnings is currently £5,035¹) but below the earnings trigger for automatic enrolment (currently £7,475).
- or
- are aged between 16 and 21, or state pension age and 74
 - are working or ordinarily work in the UK under their contract
 - have qualifying earnings payable by the employer in the relevant pay reference period that are above the earnings trigger for automatic enrolment (currently £7,475).

Jobholders

47. Together, non-eligible jobholders and eligible jobholders make up the jobholders group. So, jobholders are workers who:
- are aged between 16 and 74
 - are working or ordinarily work in the UK under their contract
 - have qualifying earnings payable by the employer in the relevant pay reference period (the lower earnings level for qualifying earnings is currently £5,035).

Entitled workers

48. They are called this because they are 'entitled' to join a pension scheme. These are workers who:
- are aged between 16 and 74
 - are working or ordinarily work in the UK under their contract
 - do not have qualifying earnings payable by the employer in the relevant pay reference period (currently under £5,035).

Summary of worker category

49. Table 1 illustrates the categories relative to age and earnings for workers who are working or ordinarily work in the UK.
50. **Detailed guidance no. 3 – Assessing the workforce** explains the steps an employer must take to correctly identify the category of worker, in particular how to assess whether a worker is working or ordinarily works in the UK and whether qualifying earnings are payable to a worker in the relevant pay reference period.

Table 1
Categories of worker relative to age and earnings

Earnings	Age (inclusive)		
	16-21	22-SPA*	SPA*-74
Under lower earnings threshold (£5,035)	Entitled worker		
Between £5,035 and £7,745	Non-eligible jobholder		
Over earnings trigger for automatic enrolment (£7,475)	Non-eligible jobholder	Eligible jobholder	Non-eligible jobholder

* State pension age

Section 4:

Employer duties and safeguards

51. All employers with at least one worker, regardless of their age or earnings, must:
- register with The Pensions Regulator. More information on registration is available at: www.tpr.gov.uk/registration
 - adhere to the safeguards. More information on the safeguards can be found in paragraphs 78-80.
52. If the employer has workers and chooses to use postponement, they will also need to provide their workers with information in the form of one of the different types of postponement notice. (An employer can use postponement to postpone the relevant employer duty for the worker for a period of up to three months. Postponement is described in **Detailed guidance no. 3a – Postponement**)
53. The employer duties for each category of worker are described below and table 2 provides a summary.
- ### Eligible jobholders
54. An employer must automatically enrol an eligible jobholder into an automatic enrolment scheme on the eligible jobholder's automatic enrolment date (or deferral date, where postponement has been used). Identifying the automatic enrolment date is explained in **Detailed guidance no. 5 – Automatic enrolment**. The deferral date is explained in **Detailed guidance no. 3a – Postponement**.
55. Part of the automatic enrolment process also requires an employer to provide the eligible jobholder with information telling them:
- they have been, or will be, automatically enrolled and what this means for them
 - their right to opt out and their right to opt back in.
56. The employer will also have to provide information about the eligible jobholder to the scheme.
57. Full details of this information can be found in **Detailed guidance no. 5 – Automatic enrolment**.
58. The eligible jobholder may choose to opt out of scheme membership once they have been automatically enrolled. 'Opting out' has a specific meaning in the pensions reform. It refers to the provision of a mechanism under the law which has the effect of undoing active membership, as if the worker had never been a member of a scheme on that occasion. It can only happen within a specific time period known as the 'opt-out period'. More information on opt outs can be found in **Detailed guidance no. 7 – Opting out**.
59. An employer will continue to have responsibilities towards the individual who has opted out. One of these is to automatically re-enrol them every three years, if they are still an eligible jobholder working for that employer.
60. If an eligible jobholder is already an active member of a qualifying scheme on their automatic enrolment date, the employer does not need to take any further action, other than to provide them with information about the scheme of which they are a member.
61. The employer will have to pay employer contributions to the scheme.

Non-eligible jobholders

62. Non-eligible jobholders do not meet the additional criteria to be eligible jobholders, so do not need to be automatically enrolled. However, they have a right to opt in to an automatic enrolment scheme, if they choose, so an employer still has duties in relation to them.
63. An employer must provide their non-eligible jobholders with certain information about opting in to an automatic enrolment scheme and what this means for them.
64. The employer must provide this information to the non-eligible jobholder within one month of the date on which they become a non-eligible jobholder, eg the employer's staging date or, if after staging, the non-eligible jobholder's first day of employment.
65. This requirement does not apply if the employer has previously issued this information, for example because:
 - the non-eligible jobholder has previously opted out of an automatic enrolment scheme with that employer, or
 - the employer chose to use postponement in respect of the non-eligible jobholder and chose to include the information on the postponement notice.
66. If a non-eligible jobholder chooses to opt in to a pension scheme, they must do so by giving the employer an 'opt-in notice'. On receipt of a valid opt-in notice, the employer must enrol the non-eligible jobholder into an automatic enrolment scheme by following the automatic enrolment process.
67. The employer will have to pay employer contributions to the scheme.
68. **Detailed guidance no. 6 – Opting in, joining and contractual enrolment** provides more detail.

Entitled workers

69. Entitled workers do not need to be automatically enrolled. However, they do have a right to join a pension scheme. The pension scheme the employer chooses to use can be a different scheme to the one they may be using for automatic enrolment.
70. An employer must provide their entitled workers with information about joining a pension scheme and what this means for them.
71. The employer must provide this information to the entitled worker within one month of the date on which they become an entitled worker, eg the employer's staging date or, if after staging, the entitled worker's first day of employment.
72. This requirement does not apply if the employer has previously issued this information for example because the employer chose to use postponement in respect of the entitled worker and chose to include the information in the postponement notice.
73. If an entitled worker chooses to join a pension scheme, they must do so by giving the employer a 'joining notice'. The employer must then arrange membership of a scheme for them.
74. The employer will have to deduct contributions on behalf of the entitled worker and pay these into the scheme.
75. However, the employer does not have to pay into the scheme themselves, unless they choose to do so, or have chosen a scheme that requires an employer contribution.
76. **Detailed guidance no. 6 – Opting in, joining and contractual enrolment** provides more detail.

continued over...

How the categories relate and what the employer must do for each

77. Table 2 sets out the different categories of worker and illustrates what the employer must do (including the employer duties) for each.

Table 2
Categories of workers and what the employer must do for each

Category of worker	What the employer has to do	Related guidance
Eligible jobholder	<ul style="list-style-type: none"> Automatically enrol Make ongoing employer contributions to the scheme 	Detailed guidance no. 5 – Automatic enrolment
	<ul style="list-style-type: none"> Process any opt-out notice 	Detailed guidance no. 7 – Opting out
	<ul style="list-style-type: none"> Automatically re-enrol approximately every three years 	
	<ul style="list-style-type: none"> Keep records of the automatic enrolment process 	Detailed guidance no. 9 – Keeping records
	<ul style="list-style-type: none"> If using postponement, provide a notification to the eligible jobholder 	Detailed guidance no. 3a – Postponement
Non-eligible jobholder	Provide information about the right to opt-in, where the employer is: <ol style="list-style-type: none"> not using postponement, or using postponement but using a tailored postponement notice for a jobholder 	If not using postponement: Detailed guidance no. 3 – Assessing the workforce If using postponement: Detailed guidance no. 3a – Postponement
	If the non-eligible jobholder decides to opt in: <ul style="list-style-type: none"> Arrange pension scheme membership Make ongoing employer contributions to the scheme 	Detailed guidance no. 6 – Opting in, joining and contractual enrolment
	<ul style="list-style-type: none"> Process any opt-out notice 	Detailed guidance no. 7 – Opting out
	<ul style="list-style-type: none"> Keep records of the enrolment process 	Detailed guidance no. 9 – Keeping records

Table 2
Categories of worker and what the employer must do for each continued...

Category of worker	What the employer has to do	Related guidance
Entitled worker	Provide information about the right to join, where the employer is: <ul style="list-style-type: none"> a) not using postponement, or b) using postponement but using a tailored postponement notice for an entitled worker 	If not using postponement: Detailed guidance no. 3 – Assessing the workforce If using postponement: Detailed guidance no. 3a – Postponement
	If the entitled worker decides to join: <ul style="list-style-type: none"> • Keep records of the joining process 	Detailed guidance no. 6 – Opting in, joining and contractual enrolment
		Detailed guidance no. 9 – Keeping records
Workers	If using postponement at their staging date or the worker's first day of employment, provide a notification to the worker.	Detailed guidance no. 3a – Postponement

Important reminder

If the employer has any worker, they must register with the regulator no later than four months after their staging date. More details on registration and a full list of the employer duties can be found on our website.

Safeguards for all workers

78. There are a number of safeguards in place to protect the rights of individuals to have access to pension saving under pensions reform. These apply to all workers, irrespective of their category, although as with the duties, different safeguards apply to different categories of workers.
79. The safeguards are listed below and **Detailed guidance no. 8 – Safeguarding individuals** provides further information.
80. The safeguards mean employers must ensure the following:
- They do not take any action or make any omission by which the eligible jobholder ceases to be an active member of the qualifying scheme. For more information about the criteria that must be met for a scheme to be a qualifying scheme, see **Detailed guidance no. 4 – Pension schemes**.
 - They do not take any action or make any omission by which the scheme ceases to be a qualifying scheme.
 - They do not take any action for the sole or main purpose of inducing a jobholder to opt out of a qualifying scheme, or a worker to give up membership of a pension scheme (this is known as ‘inducement’).
 - During recruitment, they or their representatives do not ask any questions or make any statements that either states or implies that an applicant’s success will depend on whether they intend to opt out of the pension scheme (this is known as ‘prohibited recruitment conduct’).
 - They do not breach employment rights for individuals not to be unfairly dismissed or suffer detriment on grounds related to the new employer duties.

How the categories relate and what is prohibited for an employer for each

81. Table 3 sets out the different categories of workers and illustrates what the employer must not do (including the safeguards) for each.

Table 3
Categories of worker and what the employer must not do

Categories of workers	Safeguards applicable
Eligible jobholder	All
Non-eligible jobholder	All
Entitled worker	<ul style="list-style-type: none"> • Inducement • Prohibited recruitment conduct • Employment rights for individuals not to be unfairly dismissed or suffer detriment on grounds related to the new employer duties
Any other worker	<ul style="list-style-type: none"> • Prohibited recruitment conduct • Employment rights for individuals not to be unfairly dismissed or suffer detriment on grounds related to the new employer duties

Section 5: Keep track of age and earnings

82. Changes in age and earnings may see a worker move between the different categories of worker. The employer duties in relation to that worker will therefore change. For this reason, it is important to monitor age and earnings – this is especially important for workers who earn below the qualifying earnings threshold, or who are under 22 years old.
83. An employer will need to put procedures in place to monitor when their workers move from one category of worker to another, and alert them as to what this means in practice.

Examples of monitoring age and earnings

Reaching age 22

Simon is aged 20. He earns more than the earnings trigger for automatic enrolment. His employer does not need to automatically enrol him because he is not yet 22 years old. However, Simon can choose to opt in to the scheme. His employer will need to provide information about his right to opt in and what this would mean for him.

The employer will also need to keep track of Simon's age because, on his 22nd birthday, Simon will then need to be automatically enrolled as he will become an eligible jobholder (assuming he still has earnings above the earnings trigger for automatic enrolment).

Earning qualifying earnings

Jasmine is 27 years old and works part time in her local shop. Her employer does not need to automatically enrol her because her earnings are below the lower level of qualifying earnings. However, Jasmine is an entitled worker so her employer must provide her with information about joining a pension scheme and what this would mean for her.

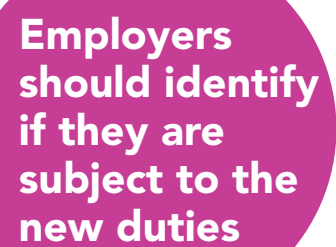
When her children start school, Jasmine starts working more hours, which pushes her earnings above the earnings trigger for automatic enrolment. Jasmine's employer must now automatically enrol her, as she has become an eligible jobholder.

What next?

All employers should identify if they are subject to the new employer duties. If they are affected, they should find out when it applies to them.

The next guidance in the series, **Detailed guidance no. 2 – Getting ready**, provides more information on the steps an employer can take to prepare for the new duties.

The other guidance in this series provides additional help for employers and explains the practicalities to ensure compliance with the new duties and safeguards.



**Employers
should identify
if they are
subject to the
new duties**

Appendix:

Changes from v2.0

This guidance has been updated in light of changes to legislation made by the Pensions Act 2011, which has now received Royal Assent, and also as a result of the publication by the Department for Work and Pensions of the regulations under the Pensions Act 2011. Specifically, new content has been added relating to seafarers and postponement.

Additionally, this guidance has been restructured to focus on other types of workers who are not considered as 'employees', in response to feedback.

Significant changes from v2.0 (published July 2011) as a result of the above are as follows:

- New content in section 2 relating to seafarers and offshore workers.
- New content in section 2 relating to personal service workers, resulting in the removal of:
 - unusual or irregular working arrangements
 - carers and nannies
 - contractual arrangements with consultants and self-employed.
- New content in section 4 and table 2 relating to postponement.

Table 4 lists other substantial changes included in v3.0. This list is not exhaustive. It does not include minor editorial changes.

Table 4
Record of additional changes included in v3.0

Page	Location	Change
6	Contracts box	New final bullet: TUPE regulations
8	Paragraphs 29-30	One-person companies content updated
10	Footnote	Updated to reflect publication of consultation since v2.0

Key terms:

Summary of the different categories of worker

Category of worker	Description of worker
Worker	<ul style="list-style-type: none">• An employee or <ul style="list-style-type: none">• someone who has a contract to perform work or services personally, that is not undertaking the work as part of their own business.
Jobholder	A worker who: <ul style="list-style-type: none">• is aged between 16 and 74• is working or ordinarily works in the UK under their contract• has qualifying earnings.
Eligible jobholder	A jobholder who: <ul style="list-style-type: none">• is aged between 22 and state pension age• has qualifying earnings above the earnings trigger for automatic enrolment.
Non-eligible jobholder	A jobholder who: <ul style="list-style-type: none">• is aged between 16 and 21 or state pension age and 74• has qualifying earnings above the earnings trigger for automatic enrolment or <ul style="list-style-type: none">• is aged between 16 and 74• has qualifying earnings below the earnings trigger for automatic enrolment.
Entitled worker	A worker who: <ul style="list-style-type: none">• is aged between 16 and 74• is working or ordinarily works in the UK under their contract• does not have qualifying earnings.

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Detailed guidance no. 1

Employer duties and defining the workforce

An introduction to the new employer duties

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